



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0963]

RIN 1625-AA09

Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the State Route 22 Bridge (Madisonville (SR 22) swing span bridge) across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana. This action is necessary to relieve vehicular traffic congestion along SR 22 near Madisonville, LA during peak, afternoon traffic periods on weekdays.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2016-0963 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or e-mail Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email Douglas.A.Blakemore@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
LA-DOTD	Louisiana Department of Transportation and Development
NPRM	Notice of proposed rulemaking
§	Section
SNPRM	Supplemental notice of proposed rulemaking

II. Background Information and Regulatory History

This final rule changes the operating schedule that governs the State Route 22 Bridge (Madisonville (SR 22) swing span bridge) across the Tchefuncta River, mile 2.5, at Madisonville.

The Madisonville (SR 22) swing span bridge has a vertical clearance of 6.2 feet above Mean High Water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. The bridge cycle time for an opening is approximately six minutes. Because the largest commercial facility upstream of the bridge is no longer in service, navigation on the Tchefuncta River consists primarily of recreational traffic. The drawbridge is regulated under 33 CFR 117.500. Currently, on both weekdays and weekends during daytime hours from 6 a.m. through 7 p.m., the draw opens on signal every half hour, and during nighttime hours from 7 p.m. through 6 a.m., it opens on signal. However, the current regulation provides that on weekdays Monday through Friday except federal holidays, the draw only opens once an hour during peak vehicular

traffic periods in the morning and afternoon, between 6 a.m. and 9 a.m. and between 4 p.m. and 7 p.m.

In 2016, the bridge owner, Louisiana Department of Transportation and Development (LA-DOTD), requested a change to the bridge's operating schedule to relieve vehicular traffic congestion along SR 22 near Madisonville, LA. LA-DOTD's regulation change request had three components. First, it requested that the Coast Guard extend the daytime openings from half-hour intervals to hourly intervals on both weekdays and on weekends. Second, it requested that the bridge stay closed at 8 a.m. on weekdays. Third, it requested that the bridge stay closed at 5 p.m. and 6 p.m. on weekdays. In other words, generally speaking, LA-DOTD requested that during daytime hours on both weekdays and weekends, the bridge would open hourly, except that during weekday morning and afternoon vehicular commuting times, the bridge would be closed for a two-hour period in the morning and three-hour period in the afternoon.

In November of 2016, the Coast Guard issued a 180-day test deviation allowing the LA-DOTD to adopt the proposed schedule for the purpose of facilitating a study of vehicular traffic flow over the bridge as it related to a four way stop sign and traffic light at the intersection of SR 22 and SR 21 and its proposed schedule.¹ At the same time, the Coast Guard published a notice of proposed rulemaking (NPRM) requesting public comments on adopting the proposed change.² We did not receive any comments on the temporary deviation or the NPRM. In 2017, LA-DOTD conducted a traffic study and replaced the four-way stop sign at the intersection of SR 22 and SR 21/SR 1077 with a traffic light. The test deviation expired on May 18, 2017.

¹ Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA (81 FR 76866).

On June 14, 2018, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) titled Drawbridge Operation Regulation; Tchefuncta River, Madisonville, LA (83 FR 27732). The SNPRM contained a detailed regulatory history of this rule and explained our review of LA-DOTD's request in light of the study. The Coast Guard determined that the study did not support all of LA-DOTD's requested changes, but that there was a potential correlation between traffic congestion and bridge openings on weekday afternoons and that a regulation change may alleviate vehicular traffic while also providing for the reasonable needs of navigation. The SNPRM proposed to change the bridge operating schedule and allow the bridge to remain closed to marine traffic at the scheduled weekday openings at 4 p.m., 4:30 p.m., 5 p.m. and 5:30 p.m. Monday through Friday except federal holidays. The proposed change would allow vehicles to travel along SR 22 unimpeded by bridge openings for a two and a half-hour period during the weekday afternoon commute. During the comment period that ended on July 16, 2018, we received 300 comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Eighth Coast Guard District Commander has determined that this change to the operating schedule of the Madisonville (SR 22) swing span bridge that allows it to remain closed to marine traffic for a two and a half hour-period, after the 3:30 p.m. opening until the 6 p.m. opening on weekday afternoon commutes, is necessary and reasonable. The purpose of this rule is to alleviate vehicle congestion on SR 22 during peak afternoon traffic hours and meet the reasonable needs of recreational vessels to use the Tchefuncta River.

² Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA (81 FR 76889).

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 300 comments on our SNPRM published on June 14, 2018. Of the comments we received, 287 were in favor of the proposed rule, 8 were not in favor of the proposed rule, and 5 comments were unclear as to whether or not they were in favor of the proposed rule.

Nearly all the commenters expressed general dissatisfaction with the regular movement of vehicular traffic over the Madisonville (SR 22) swing span bridge. Of the 287 comments in favor of the two and one-half afternoon closure period during weekday afternoon commutes, 120 commenters requested that the Coast Guard also consider a morning weekday closure; another 42 of the 287 commenters requested that the Coast Guard extend the period between all openings from a half hour to an hour; and another 30 requested that the Coast Guard extend the two and one-half hour afternoon closure to accommodate either earlier school traffic patterns or a longer rush hour period into the evening. Although the Coast Guard understands the commenters' well-stated concerns for requiring additional closures and fewer openings, the Coast Guard is in need of data upon which to propose such changes. At this time, the Coast Guard believes that there is insufficient objective evidence that making the schedule more restrictive to vessels would result in a corresponding alleviation in the traffic congestion.

In particular, some commenters in support of the change claimed that recreational vessel use of the Tchefunta River, rather than commercial use, is insufficient use of the waterway to warrant a disproportionate inconvenience to motorists travelling on SR 22. However, a greater number of commenters also acknowledged that the opening of the drawbridge may not be the only factor causing the vehicular congestion, and that even

closing the drawbridge entirely may not permanently solve the motorists' delay. The commenters pointed to the recent population increase in the area, the fact that SR 22 is one of only two routes over the Tchefunta River in the area, and the location of a traffic light less than 500 feet from the drawbridge as factors indicating that a land-based traffic management solution may be necessary. Some commenters recommended widening SR 22, replacing the swing-span bridge with a fixed bridge, adjusting the schedule of the nearby traffic light, or creating a circle pattern at the SR 22 and SR 21/SR 1077 intersection. We have forwarded those comments to LA-DOTD.

Of the 8 comments not in favor of the rule, most stated that the current schedule was acceptable and opposed any further restriction on bridge openings for vessels. In particular, some of the 8 commenters stated that waterways should take priority over roadways and echoed the above-mentioned statements that vessel traffic is not the cause of the motorists' delay, citing the increase in vehicular traffic and expressing an unwillingness to accommodate the local population increase. None of the commenters against the proposed afternoon closure presented an alternate closure period or presented any facts or data indicating that the recreational vessels could not adjust their transits according to the new schedule. In particular, one commenter expressed concern that the schedule would unnecessarily restrict tax-paying vessel owners from taking evening sunset cruises from November to February. While the Coast Guard understands that this schedule change will impact evening vessel transits, the impact will only be during weeknights, when vehicular traffic is heaviest, and the weekend schedule will provide flexibility for vessels requiring evening openings.

In addition, some commenters in favor of the rule expressed a misunderstanding

as to the way the Coast Guard regulates drawbridges and their operation generally. As a preliminary matter, all drawbridges open “on signal,” which means that drawbridges must open promptly and fully for the passage of vessels when a request or signal to open is given in accordance with 33 CFR 117.15. In other words, even at the scheduled times in the regulation, the drawbridge does not open unless a vessel actually signals for an opening. Moreover, vessels may not signal for a drawbridge opening if the vertical clearance is sufficient to allow a vessel, after all lowerable nonstructural vessel appurtenances that are not essential to navigation have been lowered, to safely pass under the drawbridge in the closed position. Accordingly, the Coast Guard may assess penalties for the unnecessary opening of the draw. Finally, at least 6 commenters expressed concern over delays of emergency medical vehicles. The Coast Guard regulations in 33 CFR 117.31 already address this issue, requiring that the drawtender make all reasonable efforts to close the draw when the emergency vehicle arrives. Nor did the Coast Guard receive comments from any police, fire, or emergency medical service providers that indicated concern with this regulation specific to their needs. In sum, the regulatory framework already provides: (1) that drawbridges do not open unless signaled by a vessel; (2) that vessels may be penalized for requesting unnecessary openings; and (3) that the drawbridge should close for emergency vehicles.

The Coast Guard thanks all commenters for their participation in this rulemaking. After considering all of the 300 comments we received, the Coast Guard believes that the SNPRM’s proposed schedule adopting a two and half-hour closure period for weeknight afternoon commutes will meet the reasonable needs of vessel traffic on the Tchefuncta River. Accordingly, there are no changes in the regulatory text of this rule from the

proposed rule in the SNPRM.

V. Discussion of Final Rule

This final rule changes the Madisonville (SR 22) swing span bridge operating schedule and allows the bridge to remain closed to marine traffic at the scheduled openings at 4 p.m., 4:30 p.m., 5 p.m., and 5:30 p.m. Monday through Friday except federal holidays. Vessels may request an opening at 3:30 p.m., and again at 6 p.m. This allows vehicles to travel along SR 22 near Madisonville, LA unimpeded by bridge openings for a two and a half hour period during the afternoon commute. There are no other proposed changes to the operating schedule. The regulatory text appears at the end of this document.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on a reduction of commercial vessel

traffic on this waterway, and the recreational powerboats and sailboats that routinely transit the bridge under the schedule. Those vessels with a vertical clearance requirement of less than 6.2 feet above mean high water may transit the bridge at any time, and the bridge will open in case of emergency at any time. This regulatory action takes into account the reasonable needs of vessel and vehicular traffic.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on the November 4, 2016 NPRM. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who

enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the

FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a change to the operating schedule of a drawbridge. It is categorically excluded from further review under paragraph L49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security

Delegation No. 0170.1.

2. Revise § 117.500 to read as follows:

§ 117.500 Tchefuncta River.

The draw of the S22 Bridge, mile 2.5, at Madisonville, LA shall open on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m. the draw need only open on the hour and half hour, except that:

(a) From 6 a.m. to 9 a.m. Monday through Friday except federal holidays the draw need only open on the hour; and

(b) From 4 p.m. to 5:30 p.m. Monday through Friday except federal holidays the draw need not open.

Dated: October 22, 2018.

Paul F. Thomas
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.
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